

**CRTC PUBLIC PROCESS NUMBER 2023-0210-8**

**REMOVAL OF FOX NEWS FROM THE LIST OF NON-CANADIAN PROGRAMMING SERVICES AUTHORIZED FOR DISTRIBUTION**

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**REPLY SUBMISSION OF EGALE CANADA**

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**June 12, 2023**

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## OVERVIEW

1. Egale Canada (“Egale”) files this reply pursuant to Rule 27 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (SOR/2010-277) in Public Process number 2023-0210-8, responding to the June 2, 2023 submission of Fox News Network, LLC (the “Answer”) as well as the interventions of The Black Coalition for AIDS Prevention, the Canadian Women’s Foundation, Dawn Sport, Diversity Ed. – Safer Spaces Canada, The Enchanté Network, Elizabeth Rush, Frederick Sanders, Jeremy Bryant, JusticeTrans, Karen Southgate, Pierre Cloutier de Repentigny, Rainbow Refugee, Robert Moloney, The Society of Queer Momentum, Toronto PFLAG, Toronto Pride, Trans Legal Collective and Women’s Legal Education and Action Fund.<sup>1</sup>
2. As a formal matter, Egale will “admit” or “deny” assertions made in the Answer and the cited interventions, as required by Rule 27.
3. On April 4, 2023, Egale wrote a letter to Vicky Eatrides, Chairperson and CEO of the Canadian Radio-television and Telecommunications Commission (the “Commission”), that led to the present public proceeding.
4. Our letter sought to have the Commission consider whether the continued broadcast of Fox News Network, LLC (“Fox News” or the “Respondent”) in Canada is in the public interest.

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<sup>1</sup> Because over 7,000 interventions were made in these proceedings, Egale has not endeavoured to respond to each intervention.

5. We described a recent incident in which then-Fox News host Tucker Carlson featured Egale and Fae Johnstone, a prominent Canadian leader for trans<sup>2</sup> rights and inclusion, in an incendiary and misleading segment that appeared to clearly violate Canadian broadcasting standards regarding the incitement of hate.
6. We raised concerns about the continued airing of similar content.
7. Since the time of our letter, Tucker Carlson has left Fox News. However, contrary to the submission of the Respondent, the question of whether the continued broadcast of Fox News in Canada is in the public interest remains a live issue.
8. As many interveners have shown and as we will lay out in what follows, Fox News regularly broadcasts false and misleading content that exposes many equity-deserving groups in Canada to hatred and contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability.
9. For this reason, we urge the Commission to remove Fox News from the List of non-Canadian programming services and stations authorized for distribution in Canada (“List”).

## **EGALE’S APPLICATION IS NOT MOOT**

10. In our April 4, 2023 letter, we asked the Commission to undertake “a consultation on the appropriateness of the continued inclusion of Fox News on the List.” This request resulted in the present proceedings.

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<sup>2</sup> “Trans” is used in this reply as an umbrella term for people who do not identify, either fully or in part, with the gender associated with the sex assigned to them at birth.

11. In its Answer, Fox News suggests that “the sole basis of Egale Canada’s application is the March 28 [Tucker Carlson] Episode”<sup>3</sup> and that, because Mr. Carlson is no longer with Fox News, our application is moot.
12. Egale denies this suggestion, which is a misunderstanding of the application and these proceedings.
13. In determining whether the present proceedings should continue, the Commission can be guided by the factors identified by the Supreme Court of Canada (“SCC”) in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342, 1989 CarswellSask 241 at para. 16. The first consideration is whether there remains a live controversy or whether the issues raised have become academic. If there is no longer a “tangible and concrete dispute”, the case is moot, but the court can still exercise its discretion to hear the dispute, particularly if issues raised are of public importance such that resolution is in the public interest.
14. With respect to the first consideration—whether there remains a live controversy—Egale’s application was not limited to the specific Tucker Carlson segment highlighted in its letter. Rather, Egale relied upon this example to urge the Commission to consider the implications of content like this segment.
15. In our letter, we stated:

Egale has experienced firsthand the hate that is generated from a single segment aired on Fox News in Canada. **We cannot begin to imagine the broader impacts and potential rise in hate that might result from allowing more content like this to air in Canada.** The CRTC is obligated to investigate whether the continued broadcasting of Fox News on Canadian television is in line with the Television Broadcasting Regulations. **People in Canada deserve to know that**

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<sup>3</sup> Factum of the Respondent, [Fox News Network, LLC](#), at para. 14.

**the news broadcast on Canadian airwaves is reliable and objective, and marginalized groups must be protected from malicious propaganda.**

According to section 18(3) of the *Broadcasting Act*, the CRTC “may hold a public hearing, make a report, issue any decision and give any approval in connection with any complaint or representation made to the Commission or with any other matter within its jurisdiction under this Act if it is satisfied that it would be in the public interest to do so.” The public interest clearly demands a **consultation on the appropriateness of the continued inclusion of Fox News on the List.**

Given the rising levels of anti-trans hate around the world and the potential for segments **like the one recently aired** on Fox News, there needs to be a serious Canadian conversation about the broadcasting of Fox News in Canada. The Television Broadcasting Regulations represent a democratic consensus on what we do and do not accept on our airwaves, and we have agreed that we do not tolerate abuse and misinformation. Fox News must be held to these same standards in Canadian broadcasting. **We are calling on the CRTC to begin public consultations on the removal of Fox News from the List of non-Canadian programming authorized for distribution in Canada.**

(emphasis added)

16. Contrary to the submission of the Respondent, Egale did not say that the Commission ought to consider delisting Fox News because of one segment—rather, Egale submitted that, as evidenced by the hate resulting from a single recent segment, the Commission needed to consider whether Fox News as a whole was broadcasting content contrary to Canadian broadcasting law.

17. However, even if Egale were relying solely on the March 28 Tucker Carlson episode, Egale submits that there is still a tangible and concrete dispute about whether Fox News has violated Canadian broadcasting standards and points to the additional examples (described below) of abusive content raised by interveners.

18. Further, in applying the *Borowski* factors, even if there were no longer a live controversy, the Commission should exercise its discretion to consider the present dispute.<sup>4</sup> The questions of whether programming like the March 28 Tucker Carlson episode exposes trans people to hatred and whether Fox News should be delisted for violating Canadian broadcasting standards are of public importance and in the public interest to resolve. This is particularly so given the evidence of repeated breaches of those standards. Further, it is in the interests of judicial economy to continue these proceedings: the Commission has sought public input, and over 7,000 individual Canadians and organizations have submitted views. These should be considered.

## GOVERNING FRAMEWORK

19. In [Broadcasting Decision CRTC 2022-68](#) (the “RT Decision”), the Commission laid out its considerations when determining whether the continued broadcast of a non-Canadian station was in the public interest in the context of determining that RT should be delisted.

20. Fox News submits that the “context of that decision, concerning a state-owned propaganda organ of the Russian government, is distinct and has no bearing here”.<sup>5</sup> To the extent that Fox News is asserting—which it appears to be doing—that the Commission should not rely upon the governing framework it described in the RT Decision, Egale Canada denies that assertion. While certainly considering a different context than the present, the Commission’s identification of factors and considerations is directly applicable to the task before the Commission in determining whether Fox should

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<sup>4</sup> See paras. 29-42.

<sup>5</sup> Factum of the Respondent, [Fox News Network, LLC](#), at para. 16(a).

be removed from the List. Indeed, consideration of the context of the content in question was a factor identified by the Commission in the RT Decision.<sup>6</sup> There is no reason to depart from the analytical framework laid out there.

21. As the Commission described in the RT Decision, section 5 of the *Television Broadcasting Regulations, 1987* (the “Regulations”) provides that:

- (1) A licensee shall not broadcast
  - (a) anything in contravention of the law;
  - (b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;<sup>7</sup>
  - (c) any obscene or profane language or pictorial representation; or
  - (d) any false or misleading news.<sup>8</sup>

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<sup>6</sup> See para. 62 and subsequent.

<sup>7</sup> While section 5(1)(b) of the Regulations does not expressly list gender identity or gender expression, as outlined by the intervention of [Professor Pierre Cloutier de Repentigny](#) at page 6 and admitted by Egale, the Commission has full authority to find a violation by Fox News on the basis that abusive content is being aired that targets trans people.

It is well-established in Canadian law that discrimination against trans people is captured by protections against sex discrimination. See *CF v. Alberta (Vital Statistics)*, 2014 ABQB 237; *MacDonald v. Downtown Health Club for Women*, 2009 HRTO 1043 at para. 31; *Vancouver Rape Relief v. BC Human Rights*, 2000 BCSC 889 at para. 59; *Vanderputten v. Seydaco Packaging Corp. (No. 1)*, 2012 HRTO 1977, 75 C.H.R.R. D/317, at paras. 57-58; *XY v. Ontario (Minister of Government and Consumer Services)*, 2012 HRTO 726 (CanLII), [2012] OHR TD No. 715 (finding discrimination against trans people to be either sex and/or disability discrimination).

The SCC also recently cited with approval a 2021 finding by the Superior Court of Quebec that “[g]ender identity is analogous to the grounds listed at s. 15(1) of the *Canadian Charter*” because “[g]ender identity is an immutable personal characteristic” (*Centre for Gender Advocacy v. Attorney General of Quebec*, 2021 QCCS 191, 481 C.R.R. (2d) 273, at paras. 104 and 106, as cited in *Hansman v. Neufeld*, 2023 SCC 14 (*Hansman*) at para. 88).

Especially in light of the revised policy objectives of the Act which now expressly reference gender identity and expression (see *infra* para. 30), it is clear that section 5 of the Regulations captures abusive content directed at trans people, either on the basis of sex, or under the analogous grounds of gender identity and expression.

<sup>8</sup> RT Decision at para. 9.



22. As the Commission further noted in its RT Decision, similar limitations are contained in section 3 of the *Discretionary Services Regulations* and in subsection 8(1) of the *Broadcasting Distribution Regulations*.<sup>9</sup>
23. In the RT Decision, the Commission explained that while it does not license non-Canadian services to broadcast in Canada, it authorizes the distribution of such services through the maintenance of the List. It will be predisposed to authorize services, requiring “clear evidence” that the “non-Canadian service would violate Canadian regulations, such as those regarding abusive comment” in order to deny authorization.<sup>10</sup>
24. In sum, to determine that the continued broadcast of Fox News is not in the public interest, thereby justifying its removal from the List, the Commission requires clear evidence that the broadcast of Fox News violates Canadian regulations. For example, that might be clear evidence that the content is false or misleading news, contravenes the law, and/or is abusive in context such that it tends to or is likely to expose an individual or a group or a class of individuals to hatred or contempt on the basis of the grounds listed in the Regulations at section 5(1)(b), like in the RT case.
25. In the RT decision, this clear evidence included: the narrative developed on RT designed to spread hate against and dehumanize Ukrainians, the existence of misinformation (including findings of the British communications regulator Ofcom) and the impact of this content.

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<sup>9</sup> *Ibid.* at para. 10.

<sup>10</sup> *Ibid.* at para. 13. See also [Public Notice CRTC 2000-173](#) and [Broadcasting Public Notice CRTC 2008-100](#).

26. Further, in *Al Jazeera Network, Re, [Broadcasting Decision CRTC 2015-146](#)*, the Commission held that section 5(1)(b) of the Regulations will be violated when (1) the on-air comments are abusive; (2) the comments, in context, tend to or are likely to expose an individual, or a group or class of individuals, to hatred or contempt, and (3) the comments are based on a ground protected in the Regulations .<sup>11</sup>

27. The Commission further explained that when examining the context of the content, it will consider:

- the type or tone of the surrounding program or discussion;
- the presence or absence of opposing views;
- the presence or absence of claimed scientific or authoritative backing for the comments or for any opposing views presented in the program;
- the presence or absence of causal links or stereotypes between a protected group and a negative quality.<sup>12</sup>

(the “*Al Jazeera* factors”)

28. Some interveners<sup>13</sup> have suggested that the present proceedings have resulted from [Bill C-11, the \*Online Streaming Act\*](#), which received Royal Assent on April 27, 2023. Egale denies this assertion. As outlined above, Egale relies upon long-standing Canadian broadcasting regulations and policy in its application. However, Egale notes that Bill C-11 did make one amendment that is relevant to these proceedings and goes beyond Egale’s objection to abusive content that exposes people to hatred.

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<sup>11</sup> See also *Canadian Broadcasting Corp., Re, [Broadcasting Decision CRTC 2009](#)*, at para. 15; *Canwest Television GP Inc., Re, [Broadcasting Decision CRTC 2010-716](#)*, at para. 18.

<sup>12</sup> *Al Jazeera Network, Re, [Broadcasting Decision CRTC 2015-146](#)*, at para. 20.

<sup>13</sup> See, e.g., [submission of Robert Moloney](#) and [submission of Karen Southgate](#).

29. As the regulator charged with the supervision of “all aspects of the Canadian broadcasting system”,<sup>14</sup> the Commission is to pursue the policy objectives contained in the *Broadcasting Act* (S.C. 1991, c.11) (the “Act”) at section 3(1).

30. Section 3(1) of the Act was modified by Bill C-11, and now expressly states that

the Canadian broadcasting system should...through its programming and the employment opportunities arising out of its operations, serve the needs and interests of all Canadians — **including Canadians from Black or other racialized communities and Canadians of diverse ethnocultural backgrounds, socio-economic statuses, abilities and disabilities, sexual orientations, gender identities and expressions, and ages** — and reflect their circumstances and aspirations, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of Indigenous peoples and languages within that society.

(emphasis added)

31. The recent addition of the bolded language above makes clear Parliament’s express intent to ensure that the rights and interests of historically marginalized communities in Canada are respected on Canada’s airwaves.

## **HATE IS NOT PROTECTED BY FREEDOM OF EXPRESSION**

32. Pointing to the freedom of expression protections contained in section 2(b) of the [\*Canadian Charter of Rights and Freedoms\*](#),<sup>15</sup> Fox News makes the bold assertion that “it would be contrary to the *Charter* and the *Charter* values that the Commission is charged with upholding, to grant Egale’s request for relief in the circumstances of this case.”<sup>16</sup>

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<sup>14</sup> *Broadcasting Act*, ([S.C. 1991, c.11](#)) at section 5.

<sup>15</sup> *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 (the “*Charter*”).

<sup>16</sup> Factum of the Respondent, [Fox News Network, LLC](#), at paras. 26-27.

Egale denies this assertion, which is an overly simplistic understanding of the right to freedom of expression in Canada as a general matter, as well as specifically within the broadcasting context.<sup>17</sup>

33. Canadian law has long established that freedom of expression does not extend to protecting hate. As then SCC Chief Justice Dickson explained:

[Hate propaganda] undermine[s] the dignity and self-worth of target group members, and more generally, contribute[s] to disharmonious relations among various racial, cultural and religious groups, as a result eroding the tolerance and open-mindedness that must flourish in a multicultural society which is committed to the idea of equality.

*Canada (Human Rights Commission) v. Taylor*, [\[1990\] 3 SCR 892](#).

34. The Commission itself has noted the same, stating:

[T]he right to freedom of expression is not absolute, but rather subject to such reasonable limits, prescribed by law, as can be demonstrably justified in a free and democratic society. The Commission has consistently considered prohibitions on the broadcast of abusive comment to be justified by the need to ensure that programming distributed in Canada reflects the circumstances and aspirations of Canadians, including equal rights and the multicultural and multiracial nature of Canadian society.

*Al Jazeera Network, Re*, [Broadcasting Decision CRTC 2015-146](#), at para.16.

35. In the broadcasting context, limits on freedom of expression are contained in section 5 of the Regulations. As laid out above, section 5(1)(b) of the Regulations addresses content that could expose a person or group to hatred. It sets a lower standard than the hate propaganda and incitement to hatred, as laid out in the [Criminal Code](#) (R.S.C., 1985, c.

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<sup>17</sup> Egale is deeply committed to the protection of the freedom of expression. Such protection has been critical in the advancement of 2SLGBTQI rights. Egale proudly intervened in the seminal SCC Little Sisters case (*Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, [\[2000\] 2 S.C.R. 1120](#)), where the SCC noted, “Government interference with freedom of expression in any form calls for vigilance” (para. 36) and continues to defend this right today (see, e.g., Egale’s intervention in *Hansman v. Neufeld*, [2023 SCC 14](#)).

C-46)<sup>18</sup> That said, jurisprudence interpreting the Criminal Code provisions is instructive here: if the content in question meets the standards applicable to the Criminal Code offenses, then it certainly surpasses the lower bar contained in the Regulations.

36. In *Saskatchewan (Human Rights Commission) v. Whatcott*, [2013 SCC 11](#), [2013] 1

S.C.R. 467, the SCC adopted the “hallmarks of hate” identified in *Warman v. Kouba*,

[2006 CHRT 50](#) (CanLII), at paras. [24-81](#):

Hate speech often vilifies the targeted group by blaming its members for the current problems in society, alleging that they are a “powerful menace” (para. 24); that they are carrying out secret conspiracies to gain global control (*Citron v. Zündel (No. 4)* (2002), 41 C.H.R.R. D/274 (C.H.R.T.)); or plotting to destroy western civilization (*Taylor*). Hate speech also further delegitimizes the targeted group by suggesting its members are illegal or unlawful, such as by labelling them “liars, cheats, criminals and thugs” (*Citron*, at para. 140); a “parasitic race” or “pure evil”: *Warman v. Tremaine (No. 2)*, 2007 CHRT 2, 59 C.H.R.R. D/391, at para. 136.

Exposure to hatred can also result from expression that equates the targeted group with groups traditionally reviled in society, such as child abusers, pedophiles (*Payzant v. McAleer* (1994), 26 C.H.R.R. D/271 (C.H.R.T.), aff’d (1996), 26 C.H.R.R. D/280 (F.C.T.D.)), or “deviant criminals who prey on children”: *Warman v. Northern Alliance*, 2009 CHRT 10 (CanLII), at para. 43. One of the most extreme forms of vilification is to dehumanize a protected group by describing its members as animals or as subhuman. References to a group as “horrible creatures who ought not to be allowed to live” (*Northern Alliance*, at para. 43); “incognizant primates”, “genetically inferior” and “lesser beasts” (*Center for Research-Action on Race Relations v. www.bcwhitepride.com*, 2008 CHRT 1 (CanLII), at para. 53); or “sub-human filth” (*Warman v. Winnicki (No. 2)*, 2006 CHRT 20, 56 C.H.R.R. D/381, at para. 101) are examples of dehumanizing expression that calls into question whether group members qualify as human beings.

As these examples illustrate, courts have been guided by the *Taylor* definition of hatred and have generally identified only extreme and egregious examples of delegitimizing expression as hate speech. This approach excludes merely offensive or hurtful expression from the ambit of the provision and respects the legislature’s choice of a prohibition predicated on “hatred”.

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<sup>18</sup> Cf “tends to or is likely to expose” language from Regulations with, e.g., “willfully promotes hatred” or “incites hatred” as contained in Criminal Code at sections 318(2) and 319, respectively.

37. On their face, numerous examples of content from Fox News display the “hallmarks of hate” indicating criminal hate speech.

### **FOX NEWS BROADCASTS ABUSIVE CONTENT THAT VIOLATES SECTION 5(1)(B) OF THE REGULATIONS**

38. As noted by interveners JusticeTrans,<sup>19</sup> Canadian Women’s Foundation,<sup>20</sup> The Enchanté Network,<sup>21</sup> the Society of Queer Momentum,<sup>22</sup> and Toronto Pride,<sup>23</sup> and admitted and supported by Egale, Fox News has regularly broadcast abusive content targeting Black individuals, immigrants, women, and 2SLGBTQI individuals.

39. Intervener JusticeTrans provides numerous examples of content broadcast by Fox News, just in the month of May 2023, that targets and encourages hate towards trans people. Laura Ingraham, Greg Gutfeld, Jesse Waters, Clay Travis, and Ned Ryun, criticized Target on separate occasions for carrying trans-inclusive swimming apparel, stating (inaccurately) that they were marketed towards young people, existed to perpetuate the “evil of targeting underage children with transgenderism”, and linked to satanism. They did so in their capacity as hosts, contributors, or guests on Fox News. Similarly, after Bud Light featured a trans person in an advertisement, a Fox News guest baseless alleged the person featured targeted children.<sup>24</sup>

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<sup>19</sup> Factum of the Intervener, [JusticeTrans](#), at p. 2.

<sup>20</sup> Factum of the Intervener, [Canadian Women’s Foundation](#), at para. 9.

<sup>21</sup> Factum of the Intervener, [the Enchanté Network](#), at para. 6.

<sup>22</sup> Factum of the Intervener, [the Society for Queer Momentum](#), at para. 6.

<sup>23</sup> Factum of the Intervener, [Toronto Pride](#), at para. 2.

<sup>24</sup> Factum of the Intervener, [JusticeTrans](#), at pp. 2-4.

40. In its intervention, the Black Coalition for AIDS Prevention (“Black CAP”) discusses how the anti-Black hate platformed by Fox News raises barriers and complicates its work.<sup>25</sup> Black CAP’s submission further establishes that Fox News has a history of broadcasting abusive content from speakers other than Tucker Carlson.<sup>26</sup>

41. Intervener Rainbow Refugee identifies how abusive content aired by Fox News exposes refugee and refugee-claimants to discrimination in Canada.<sup>27</sup> In particular, Rainbow Refugee cites the promotion by Fox News of the “Great Replacement Theory”, a racist conspiracy theory that posits that there is a plot to reduce the power of white people, including by shifting demographics through immigration.<sup>28</sup>

42. In determining the question at hand—whether Fox News should be delisted—the Commission should consider all of the evidence before it, including the examples of abusive content raised by interveners, just as it did in the RT Decision.

### **March 28, 2023 Segment (Tucker Carlson)**

43. While Egale Canada denies that the sole issue before the Commission is the March 28 Tucker Carlson segment, it is worth considering this segment in detail. In its Answer, Fox News claims that this content was designed to “elicit debate on matters of legitimate public interest”.<sup>29</sup>

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<sup>25</sup> Factum of the Intervener, [Black Coalition for AIDS Prevention](#), at para. 9.

<sup>26</sup> *Ibid.*, at para. 7.

<sup>27</sup> Factum of the Intervener, [Rainbow Refugee](#), at para. 7.

<sup>28</sup> *Ibid.*, at para. 8; David Bauder, [“What is the ‘great replacement theory’ and how does it fuel racist violence?”](#) (2022) PBS, at para. 4.

<sup>29</sup> Factum of the Respondent, [Fox News Network LLC](#), at para. 17.

44. This is a deeply misleading description of what happened during this segment, which was rife with misinformation and an outrageous and unreasonable juxtaposition of unrelated events. The segment also contains several of the *Al Jazeera* factors of abusive content, as well as *Whitcott* hallmarks of hate.
45. In the March 28 segment, Tucker Carlson delivered a [nine minute and 21 second monologue](#) where he characterizes trans people as a privileged and favoured group in society that is a violent threat to Christians.
46. He made the following claims:
- a. Trans people are “pretend[ing] to be members of the opposite sex” (1:20-1:35);
  - b. There are “benefits” or “incentives” to being trans, and trans people are given preferential treatment in professional and educational spheres and conveys status (starting at 0:59);
  - c. “The people in charge despise working-class whites, but they venerate the trans community” (1:33-1:38)
  - d. “The trans movement is the mirror image of Christianity and therefore its natural enemy” (2:10-2:15)
  - e. “That unwillingness to agree, that failure to acknowledge a trans person’s dominion over nature, incites and enrages some in the trans community. People who believe they’re God can’t stand to be reminded that they’re not. So, Christianity and transgender orthodoxy are wholly incompatible theologies. They can never be reconciled. They are on a collision course with each other. One side is likely to draw blood before the other side. That’s what we concluded last week. Yesterday morning, tragically, our fears were confirmed.” (3:01-3:35)
  - f. Gender-affirming care for minors is the “sexual mutilation of children” (4:42-4:44)
  - g. Called the rise in anti-trans hate a lie and said that “we seem to be watching the rise of trans terrorism”. (5:34-5:38)<sup>30</sup>

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<sup>30</sup> Referring to three incidents of gun violence in recent years allegedly involving trans individuals in the United States. As of May 1, 2023, there had been 184 mass shootings in the United States in 2023 alone. See, e.g., Alfonseca, Kiara. [“More than 13,900 people killed in gun violence so far in 2023”](#), (May 2, 2023) ABC News.



- h. “The trans movement is targeting Christians, including with violence.” (7:34-7:38)
- i. Regarding the shooter, suggested that “we can’t know what kind of drugs [the shooter] was taking, what kind of hormones or SSRIs or benzodiazepines. We can only guess.” (8:49-8:55)
- j. “Yesterday’s massacre happened because of a deranged and demonic ideology that is infecting this country with the encouragement of people like Joe Biden.” (9:10-9:19)

47. Considering the *Al Jazeera* factors:

- a. The tone of the program was incendiary:
  - i. Terms like “trans terrorism”, a “deranged and demonic ideology that is infecting” society, “sexual mutilation of children”.
  - ii. Alarmist rhetoric suggesting pressing danger, such as “they are on a collision course with each other” and references to “draw[ing] blood”.
- b. The segment contained no opposing views;
- c. There was no legitimate backing for any of the assertions of Tucker Carlson;
  - 1. The Supreme Court of Canada has just recognized to be true the direct opposite of much of what Mr. Carlson claimed.<sup>31</sup> Egale reproduces in full the Court’s findings on the realities facing trans people, given their relevance to the hateful and abusive claims made on Fox News:

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<sup>31</sup> *Hansman v. Neufeld*, [2023 SCC 14](#) at paras. 85-89.

The transgender community is **undeniably a marginalized group in Canadian society**. The history of transgender individuals in our country has been marked by discrimination and disadvantage. Although being transgender “implies no impairment in judgment, stability, reliability, or general social or vocational capabilities”, transgender and other gender non-conforming individuals were largely viewed with suspicion and prejudice until the latter half of the 20th century.

Indeed, transgender people occupy a **unique position of disadvantage in our society**, given the **long history in psychiatry “of conflating [transgender and other 2SLGBTQ+] identities with mental illness”** and even resorting to harmful “conversion therapy” to “resolve” gender dysphoria, and “recondition” the individual to reduce “cross-gender behavior”. As the British Columbia Human Rights Tribunal has recognized, “[u]nlike other groups . . ., **transgender people often find their very existence the subject of public debate and condemnation”**. They are stereotyped as **diseased or confused simply because they identify as transgender**.

**Transgender people have faced discrimination in many facets of Canadian society**. Statistics Canada has concluded that they are at **increased risk of violence**, and report higher rates of poor mental health, suicidal ideation, and substance abuse as a means to cope with abuse or violence they have experienced. Studies have concluded that they are **disadvantaged relative to the general public in housing, employment, and healthcare**. And despite encountering a higher incidence of justiciable legal problems, studies have also found that transgender people have traditionally faced **greater access to justice barriers** than the broader population, in part due to a lack of explicit human rights protections.

Significant legal advancements in transgender rights have only come in the last 35 years, with most change taking place in the last decade . Once forced to advance claims of discrimination on the ground of “physical disability”, gender identity and/or expression are now prohibited grounds of discrimination in human rights codes across the country and included within the prohibition against hate speech under the Criminal Code, R.S.C. 1985, c. C-46 .

In the wake of this legislative progress, judicial recognition of the plight of transgender individuals in Canada is growing. And in 2021, the Superior Court of Quebec held that “[g]ender identity is analogous to the grounds listed at s. 15(1) of the Canadian Charter” because “[g]ender identity is an immutable personal characteristic” (Centre for Gender Advocacy v. Attorney General of Quebec, 2021 QCCS 191, 481 C.R.R. (2d) 273, at paras. 104 and 106).

Yet individual courts and tribunals have also recognized that, **“despite some gains, transgender people remain among the most marginalized in our society”, and continue to live their lives facing “disadvantage, prejudice, stereotyping, and vulnerability”.**

(emphasis added; internal citations omitted for ease of reading)

2. The findings of the SCC bring into stark relief the abusiveness of the claim of Mr. Carlson that the trans community is somehow favoured in society and the harmfulness of his suggestion that trans people are “pretending” to be something they are not.
  - ii. Equally troubling is Mr. Carlson’s reference to gender-affirming care for minors as “sexual mutilation”, when such care is recognized as “a supportive form of healthcare... consist[ing] of an array of services that may include medical, surgical, mental health, and non-medical services for transgender and nonbinary people” that is “crucial to overall health and well-being”.<sup>32</sup>

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<sup>32</sup> Office of the Assistant Secretary for Health, [“Gender-Affirming Care and Young People”](#), , US Department of Health and Human Services, at p. 1. See Heather Boerner, [“What the Science on Gender-Affirming Care for Transgender Kids Really Shows”](#) (2022) the Scientific American; James L. Madara, M.D. [“AMA to states: Stop interfering with healthcare of transgender children”](#) (2021) American Medical Association.

- d. Mr. Carlson employed multiple causal links and stereotypes between trans people—a protected group—and negative qualities.
  - i. Mr. Carlson’s entire segment pitches trans people as a violent “deranged and demonic” existential threat to Christianity.
  - ii. Mr. Carlson makes similarly unsupported claims regarding alleged connections between medication that trans people may or may not take and violence.

48. The segment also contained *Whatcott* hallmarks of hate, specifically:

- a. Vilifying the targeted group by blaming members for threats to society and suggesting that the group is trying to gain control and power;
- b. Delegitimizing the targeted group by suggesting its members are unlawful and criminal (here, that trans people are violent threats).

49. Egale will briefly address the portion of the March 28 segment that addresses it as an organization.

50. In its Answer, Fox News suggests that Mr. Carlson was contributing to legitimate public debate by claiming that trans advocates had failed to respond to a tragic school shooting in Nashville, Tennessee that occurred on March 27, 2023, where the shooter was reported to be a transman.

51. Specifically, the Respondent notes that in a March 28, 2023, Open Letter entitled “All Levels of Government in Canada have a Responsibility to Combat the Rise in Anti-

2SLGBTQI Hate”, Egale Canada did not reference this shooting. Regarding Mr. Carlson’s coverage of Egale, Fox News describes:<sup>33</sup>

With a brief graphic of Egale Canada’s logo visible on-screen – for no more than a few seconds – Mr. Carlson stated that the trans-rights organization had released a statement “which ignored the murder of the children in Nashville entirely and instead claimed that there has been an exponential rise in anti-trans violence.” Mr. Carlson stated, without referencing Egale Canada by name, that Egale’s statement in this regard was “... a lie. It’s a provable lie, and in fact, the opposite is true.” Mr. Carlson referenced several recent instances of violence attempted or inflicted by trans-people, as counterexamples. In total, Egale Canada was discussed during the March 28 episode for no longer than twenty seconds during the opening segment.

52. Egale admits that its March 28 letter, directed to different levels of government in Canada about actions that needed to be taken in Canada in response to a demonstrated and documented rise in anti-2SLGBTQI hate in Canada, did not reference a tragic school shooting in the United States. However, with all due respect to Fox News and its former host, it is absurd and clearly abusive to suggest that it should have.

53. Fox News recognizes that the scope and audience of the Open Letter was Canada;<sup>34</sup> Egale does not operate within the United States, nor does it generally comment on tragedies that are unrelated to its mandate.<sup>35</sup>

54. Fox News submits that “the content complained of came from a brief portion of a broader segment of a singular episode of Tucker Carlson Tonight, in which Mr. Carlson was engaged in fostering debate in relation to public responses, such as that of Egale Canada,

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<sup>33</sup> Factum of the Respondent, Fox News Network, LLC, at para. 11.

<sup>34</sup> *Ibid.*, at para. 7 (recognizing that, through its letter, Egale “issued recommendations to different levels of government in Canada”).

<sup>35</sup> To suggest that Egale is somehow responsible for defending or decrying the actions of all 2SLGBTQI individuals globally is unreasonable. Egale’s *lack* of comment on the tragic Covenant School shooting is not a public response linking the shooting to growing anti-trans hate in Canada.

that appeared to link the Covenant School shooting to allegedly widespread and growing anti-trans sentiment.”<sup>36</sup> With respect, this position is not credible. There is simply no good-faith basis to link the domestic Open Letter written by Egale to Canadian governments that expressly references a rise in Canadian anti-trans hate to a school shooting tragedy in the United States.

55. The Open Letter referenced by Mr. Carlson and by Fox News specifically states that Egale is writing levels of Canadian government in response to “a growing reactionary movement in Canada threatening the safety, freedoms, and rights of 2SLGBTQI people, especially those who are Two-Spirit, trans, nonbinary, and/or gender non-conforming (2STNBNBGN).” While Mr. Carlson may be of the view that this is a lie,<sup>37</sup> the Prime Minister of Canada disagrees,<sup>38</sup> as does Canadian media,<sup>39</sup> and hard evidence.<sup>40</sup>

56. It is absurd to suggest that it amounts to legitimate public debate to ask why this open letter to domestic Canadian governments would not have spoken about an unrelated tragedy in another country.

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<sup>36</sup> Factum of the Respondent, Fox News Network, LLC, at para. 20.

<sup>37</sup> *Ibid.*, at para. 11.

<sup>38</sup> See [tweet](#) of Prime Minister Justice Trudeau on March 8, 2023, referencing “a disturbing rise in anti-transgender hate here in Canada and around the world recently”.

<sup>39</sup> Sean Boyton, “[As anti-LGBTQ2 hate grows in Canada, advocates say it’s ‘never been as scary’](#)” (2023) Global News.

<sup>40</sup> In Egale’s [Pride Unravalled Campaign](#), we note that there were 6,423 anti-2SLGBTQI protests and instances in Canada just between January and March 2023.

### **March 14, 2023 Segment (Ned Ryun)**

57. In its submission, intervener the Society for Queer Momentum includes the example of a [March 14, 2023 segment of Fox News featuring Ned Ryun](#), a regular Fox News contributor.<sup>41</sup>

58. Egale admits the assertion of the Society for Queer Momentum that this broadcast violated the Regulations and will focus on Ned Ryun’s statement that:

“transgenderism signals the total collapse, complete failure of the post-modern feminist movement. [...] I think it’s also commentary on our culture and society that we’re actually celebrating this mental instability.” - ([Fox News](#) 11:57)

59. Mr. Ryun’s statement referenced Drew Barrymore embracing actress and trans activist Dylan Mulvaney on Ms. Barrymore’s show.

60. Mr. Ryun’s statement is a violation of section 5(1)(b) of the Regulations.

61. First, Mr. Ryun’s statement targets a protected group on the basis of sex (or on the analogous ground of gender identity and/or expression).

62. Second, his comment is abusive, containing two of the *Al Jazeera* factors. His statement was made without the presence of opposing views to challenge them; rather, Mollie Hemingway and Laura Ingraham nodded and expanded upon his points. Further, his statement reinforces the prejudicial trope that trans identities are invalid and the product of mental illness.<sup>42</sup>

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<sup>41</sup> Factum of the Intervener, [the Society for Queer Momentum](#), at para. 6.

<sup>42</sup> Just as homosexuality was previously and harmfully characterized as a mental disorder, so too were trans identities. For over a decade, the medical community has recognized that being trans is not a mental disorder, but, instead, that being unable to live in congruence with one’s identity can result in distress. See Francine Russo,

63. Third, Mr. Ryun’s statement exposes the protected group to hate by calling on viewers to adopt the understanding that trans individuals are mentally unstable and suggesting that the celebration of trans identities is a negative commentary on society.<sup>43</sup>

64. Mr. Ryun’s statement also carries two *Whatcott* hallmarks of hate: he blames trans individuals for the alleged collapse of feminism and continued gender inequality in Western societies, thereby vilifying trans people as a group. He also harmfully labels trans people by suggesting that trans identities are the result of mental instability. Ryun extends the incitement to hate by suggesting that trans identities are additionally a cultural blight.

**April 23, 2023 Segment (Sara Carter)**

65. Intervener the Society for Queer Momentum also includes the example of an [April 23, 2023 segment featuring Sara Carter](#) in its submission.<sup>44</sup>

66. Egale admits the assertion of the Society for Queer Momentum that this broadcast violated the Regulations through Ms. Carter’s suggestion that 2SLGBTQI-identifying migrants are lying about their age, allowing them to be placed in detention centres with children.

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[“Where Transgender is No Longer a Diagnosis”](#) (2017) the Scientific American. See also *Hansman v. Neufeld*, [2023 SCC 14](#) at para. 85 (“Indeed, transgender people occupy a unique position of disadvantage in our society, given the long history in psychiatry “of conflating [transgender and other 2SLGBTQ+] identities with mental illness” and even resorting to harmful “conversion therapy” to “resolve” gender dysphoria, and “recondition” the individual to reduce “cross-gender behavior”” (internal citations omitted)).

<sup>43</sup> See *Hansman*, *ibid.*

<sup>44</sup> Factum of the Intervener, [the Society for Queer Momentum](#), at para. 6.



67. Ms. Carter’s comment was made in reference to a proposed bill of the United States President Biden Administration to exempt from detention vulnerable individuals entering the United States without authorization. In the minutes preceding the statements being focused on here, Ms. Carter alleges that individuals are aware of this “loophole” and falsely self-identify as 2SLGBTQI “so that people can continue to come into this country illegally” ([Fox News](#) 1:10, April 23, 2023). She then makes the following statement:

“So think about this. They’ll come in saying that they’re a young person, so they’ll give an age of like 17, when they’re actually like 26. So then they move these folks into facilities where they are holding younger people, and exposing the younger children to older adults, post-18. And those children are now susceptible to being abused by older folks. This is a problem we’ve seen across the board” ([Fox News](#) 2:31), April 23, 2023, Sara Carter.

68. Ms. Carter’s statement is a violation of section 5(1)(b).

69. First, her statement targets a protected group on the basis of national and ethnic origin.

70. Second, her comment is abusive, containing three of the four *Al Jazeera* factors. She presents her thought experiment as fact, absent authoritative sources, other than alleging that the problem has been seen “across the board”. She makes her comment to three newscasters, none of whom challenge or point to an opposing view. Also, she draws a direct link between being an immigrant to the United States and being a threat to children.

71. Third, her statement likely exposes the enumerated protected group to hate. Her statement promotes contempt towards migrant individuals by suggesting that they are fraudulent and a danger to children.<sup>45</sup>

72. Ms. Carter’s statement also contains the *Whatcott* hallmark of hate speech by equating immigrants with pedophiles, a traditionally reviled group in society. She generalizes her stereotype by characterizing it as a “problem [...] seen across the board” ([Fox News](#) 2:31). Ms. Carter further chastises authorities for failing to act. In stating false stereotype as fact, and portraying the government as inactive, Ms. Carter exposes immigrants to significant harm, by suggesting that they are a dangerous threat to children and society as a whole.

**May 1, 2023 Segment (Laura Ingraham & Dr. Victor Davis Hanson)**

73. Intervener Rainbow Refugee includes an example from May 1, 2023, of an [exchange between Laura Ingraham and Dr. Victor Davis Hanson](#), a guest on her program.

74. In this segment, Dr. Hanson discussed how supporters of the “Great Replacement” theory are unfairly called racists. “[Those calling supporters racists] are the racialists, they are trying to bring in voters” added Dr. Hanson ([Fox News](#) 1:00).

75. The “Great Replacement” theory is a white supremacist conspiracy theory alleging an intentional effort to reduce the influence of white people, often linked to more open immigration efforts in the United States. The theory is also anti-Semitic—adherents

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<sup>45</sup> See *Hansman v. Neufeld*, [2023 SCC 14](#) at para. 84 (“transgender and other gender non-conforming individuals were largely viewed with suspicion and prejudice until the latter half of the 20th century”).

believe that Jewish people are behind the alleged plot. The well-publicized white nationalist chants in the deadly 2017 Charlottesville, Virginia rally (“You will not replace us!” and “Jews will not replace us!”) reflected these beliefs.<sup>46</sup>

76. In response to Dr. Hanson’s remarks—in which he directly adopted the views of the “Great Replacement” theory—Ms. Ingraham also agreed that the “Great Replacement” theory is being pursued:

“This is their goal. This is why they say, well, they’re being effective. Yeah, [Homeland Security Secretary Alejandro] Mayorkas is right, they are being effective – to remake America.” ([Fox News](#) 1:36) May 1, 2023, Laura Ingraham

77. Egale admits the assertion of Rainbow Refugee that the broadcast of this exchange included abusive content in violation of the Regulations.

78. First, it targeted an enumerated protected group on the basis of national or ethnic origin.

79. Second, the exchange is abusive, including at least three of the *Al Jazeera* factors. There is disdain in Ms. Ingraham’s tone—she begins this discussion by saying, “We are in how much trouble?” (0:01-0:02). The segment includes no opposing views; only she and Dr. Hanson agreeing with and developing on each other’s points. The statements of both individuals are premised on the prejudicial stereotype that immigrants are a threat to the society of the countries they move to.

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<sup>46</sup> David Bauder, “[What is the ‘great replacement theory’ and how does it fuel racist violence?](#)” (2022) PBS, at para. 4. See also “[Deplatforming Tucker Carlson and the ‘Great Replacement’ Theory](#)” (2022) Anti-Defamation League; “[‘The Great Replacement’: An Explainer](#)” (2021) Anti-Defamation League; Adam Gabbatt, “[Fox News suddenly goes quiet on ‘great replacement’ theory after Buffalo shooting](#)” (2022) The Guardian; Jane Lee, Isabella Corrao, “Fox News uses the end of Title 42 to spread ‘great replacement’ theory rhetoric” (2023) Media Matters for America; Nicholas Confessore, “[Schumer calls on Murdoch and Fox News executives to stop amplifying replacement theory](#)” (2022) New York Times.

80. Third, the exchange likely exposes immigrant communities to hate by otherizing them and characterizing them as oppositional to the current “America”.

81. Ms. Ingraham and Dr. Hanson’s exchange also contains *Whatcott* hallmarks of hate speech. In *Whatcott*, the SCC held that examples of hate speech may include labelling communities as a threat to society or as plotting to gain control of civilization. In broadcasting the segment, Fox News has propagated a conspiracy that immigrant communities are entering the United States at the invitation of the Democratic and other liberal-aligned political parties to change the social order. Fox News has depicted immigrant communities as nefarious, fostering hate towards them.

82. Egale directs the Commission to Appendix A for additional examples submitted by interveners which Egale admits are abusive in violation of the Regulations.

83. In its Answer, Fox News suggests that its original authorization by the Commission recognized its “distinctive style of programming” and reflected a desire by Canadians to “have access to a diversity of viewpoints.”<sup>47</sup> While Egale admits (and agrees with) the importance of having a diversity of perspectives on Canadian airwaves, Egale denies that alleging a distinctive style of programming or a different set of viewpoints justifies the broadcasting of abusive content in violation of section 5(1)(b).

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<sup>47</sup> Factum of the Respondent, [Fox News Network, LLC](#), at para. 24.

## FOX NEWS IS KNOWN TO BROADCAST FALSE AND MISLEADING CONTENT

84. The Respondent's reference to its original authorization by the Commission<sup>48</sup> also fails to account for the information that has come out in the nearly 20 years since that decision. Now, much more is known about the extent to which Fox News broadcasts false and misleading content as a general matter. This broader context is an important consideration for the Commission, as it noted in the RT Decision.<sup>49</sup> For the reasons that follow, Egale denies the relevance of the Commission's 2004 decision to authorize Fox News and submits that the reasoning contained in this decision is no longer valid.

85. As noted by intervener Jeremy Bryant<sup>50</sup> and admitted by Egale, other jurisdictions have found Fox News to have broadcast false and misleading content.

86. In March of this year in the United States, the Superior Court of the State of Delaware found that Fox News broadcast misinformation in its coverage of the 2020 United States Presidential Election.<sup>51</sup>

87. In the United Kingdom, Fox News was repeatedly found to violate British broadcasting regulations, many in connection abusive comments against a class of individuals on the basis of religion. Ofcom, the British communications regulator, has the power to issue fines for breaches of impartiality and accuracy requirements and did so with respect to

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<sup>48</sup> [Broadcasting Public Notice CRTC 2004-88](#).

<sup>49</sup> At para. 62.

<sup>50</sup> See submissions of [Jeremy Bryant](#).

<sup>51</sup> [Dominion v. Fox News](#), Superior Court of the State of Delaware (March 31, 2023). See also Gregorian, and Jane C. Timm, "[In a loss for Fox News, judge allows Dominion's defamation case to go to trial](#)", (March 31, 2023) NBC News Online.

Fox News multiple times before the company pulled out of the UK market in 2017. These instances included:

- a. Ofcom found Fox News to have “presented the audience with materially misleading facts” for its anti-Muslim coverage of the 2015 Charlie Hebdo attack.<sup>52</sup>
  - b. Ofcom found Fox News to have violated the due impartiality regulations in its coverage of the 2016 United States Presidential Election, specifically noting that Fox News presented “an overwhelmingly one-sided view on a matter of major political controversy and major matter relating to current public policy”.<sup>53</sup>
  - c. Even after Fox News no longer aired in the UK, Ofcom felt it important to find two additional due impartiality violations by the company, specifically regarding coverage of then President Trump’s “Muslim travel ban” and of the 2017 Manchester terrorist attack.<sup>54</sup>
88. Each of these examples—judicial or regulatory findings from two of Canada’s closest democratic allied nations—show that Fox News is not simply presenting alternative viewpoints; rather, it is regularly airing false, misleading and dangerous content.
89. The so-called “distinctive style of programming”<sup>55</sup> of Fox News is now better understood. In studying Fox News, some scholars have determined that its content

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<sup>52</sup> [Ofcom Broadcast Bulletin, Issue 288 \(21 September 2015\)](#).

<sup>53</sup> [Ofcom Broadcast and On Demand Bulletin 317 \(21 November 2016\)](#).

<sup>54</sup> [Ofcom’s Broadcast and On Demand Bulletin 341 \(6 November 2017\)](#).

<sup>55</sup> Factum of the Respondent, [Fox News Network, LLC](#), at para. 24.

includes techniques of propaganda.<sup>56</sup> For several years, Fox News reporting has been recognized as partisan and heavily affiliated with the Republican Party and similarly aligned conservative organizations.<sup>57</sup> Techniques Fox News uses include the building of frustration towards elites, the allusion to individuals who seek to destabilize the political system, and a general reliance on fear.<sup>58</sup> There is clear overlap between these tactics—in particular the promotion of unwarranted fear—and the examples of abusive content described above.

90. The intervention of the Canadian Women’s Foundation (the “CWF”)—which is admitted by Egale—provides an in-depth analysis of how Fox News relies on harmful “‘othering’ effect[s]”. Fox News often does so through sensational reconstructions of events rather than providing accurate depictions. By way of example, the CWF submits that, on Fox News, actress and talk show host Drew Barrymore embracing actress Dylan Mulvaney (who is also a transwoman and activist) becomes “Drew Barrymore sublimating herself on her knees to this dude in lady face”. Migrants entering the United States become invaders you can shoot. The CWF identifies that Fox News incites hate by diminishing the humanity of protected groups, encouraging individuals to harass them online, and encouraging physical violence.<sup>59</sup>

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<sup>56</sup>Mike Conway, Maria Elizabeth Grabe, and Kevin Grieves, "[Villains, victims and the virtuous in bill O’Reilly’s ‘no-spin zone’: Revisiting world war propaganda techniques](#)" (2007) 8:2 *Journalism Studies* 197; Chris Peters, "[No-spin zones](#)" (2010) 11:6 *Journalism Studies*, 11(6), 832.

<sup>57</sup> Stefano DellaVigna, Ethan Kaplan, "[The Fox News Effect: Media Bias and Voting](#)" (2007) 122:3, *Quarterly Journal of Economics* at p. 1189.

<sup>58</sup> Jo Fox, "[‘Fake News’ – the Perfect Storm: Historical Perspectives](#)" (2020) 93:259 *Bulletin of the Institute of Historical Research* at p. 177.

<sup>59</sup> Factum of the Intervener, [the Canadian Women’s Foundation](#), at para. 9.

91. As each of these examples make clear, the context of the original authorization of Fox News no longer applies.

## EVIDENCE OF HARM

92. Some interveners<sup>60</sup> have questioned whether any harm has resulted from the continued broadcast of Fox News. Egale denies this questioning: as the Commission has recognized, abusive content is in itself harmful. Further, real harm has resulted from the content broadcast by Fox News.

93. In the CHOI-FM Decision relied upon by Fox News ([Broadcasting Decision CRTC 2004-271](#)), the Commission stated as follows:

**The purpose of section 3(b) is to prevent the real harms that such remarks can cause, harms that undermine the objectives of the broadcasting policy set out in the Act, and that have been recognized by the courts.**

One harm caused by remarks that could expose a person or group to hatred or contempt is the emotional damage caused by the remarks, which may be of **grave psychological and social consequences** for the person or members of the targeted group. **The derision, hostility and abuse encouraged by such remarks have a severely negative impact on the targeted group or individual's self-worth, human dignity and social acceptance within society.** This harm undermines the equality rights of those targeted, whereas the broadcasting policy for Canada states that those rights should be reflected in the programming offered by the Canadian broadcasting system.

The regulation prohibiting abusive comment that tends or is likely to expose a person or a group to hatred or contempt is necessary not only to avoid harm to the persons targeted, but **also to ensure that Canadian values are respected for all Canadians.** The broadcast of remarks that could expose individuals or groups to hatred or contempt **can attract individuals to its cause and in the process create serious discord between various groups in Canadian society to the detriment of all of Canadian society.** This harm **undermines the cultural, political and social fabric of Canada** which the Canadian broadcasting system is expressly meant to safeguard, enrich and strengthen. It also undermines the

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<sup>60</sup> See, e.g., submission of [Dawn Sport](#) and submission of [Frederick Sanders](#).



multicultural and multiracial nature of Canadian society, which the programming of the Canadian broadcasting system should reflect. **Protection from the harms of abusive comment is for the benefit of all Canadians.**

(emphasis added, paras. 33-35)

94. In its intervention, the Women’s Legal Education and Advocacy Fund (“LEAF”) highlighted the findings of the Mass Casualties Commission (“MCC”) as instructive, which Egale admits. In considering the circumstances that surrounded the April 18 and 19, 2020 mass shootings in Nova Scotia, the MCC took notice of the risk of harmful rhetoric escalating to physical violence.<sup>61</sup> The MCC highlighted the media’s unique role in “help[ing] to inform the public about the broad and systemic issues” and how they may “contribute to building a culture where everyone feels safe”. As a news organization, Fox News serves this unique and pivotal role.<sup>62</sup>

95. Following the Tucker Carlson segment that was the subject of Egale’s initial letter to the Commission, Egale received an unprecedented level of hate, directly in response to this segment.

96. Examples included the following messages:

should have kept your strange fetishes in your homes to yourselves where it belongs. Instead you try to ram it down throats

1 more time stay away from the children or wipe you off of face of earth

Mujahideen

...

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<sup>61</sup> Factum of the Intervener, [Women’s Legal Education and Action Fund](#), at para. 13.

<sup>62</sup> *Ibid.*, at para. 14.

shame on you for not even recognizing the deaths of kids in the shooting... by a tranny... shame... instead you claim more victimhood... shame on you... face it... a trans mass murdered kids and people at a school... recognize that... see the facts as they are...

...

Trans killed kids in USA, yet you make a story about you assholes, fuck your dumbass movement as a Canadian I can't stand you a holes, fox news is right, fuck u bitches.

...

So you want war? now your going to get it.

You never mentioned the murdered kids. Everyone of you reading this are disgusting people,if you still are " people ". Your mental illness will catch up with you, probably to the detriment of innocents. Regards.

97. Two days after writing to the Commission, Egale received a particularly troubling messaging, encouraging suicide:

If there is anything I can do to help you sub humans reach that 50% attempted rate, let me know.

<https://www.homedepot.com/p/Everbilt-3-4-in-x-150-ft-Manila-Twist-Rope-Natural-72660/206094559>

I saved you the effort of a google search.

98. In the submission of intervener the Society for Queer Momentum, Fae Johnstone relays how, after being personally featured on Fox News in a misleading light, she experienced “serious concerns about [her] safety, and a tsunami of death threats, hateful messages and encouragements to suicide, taking a significant toll on [her] mental health.” Ms.

Johnstone then required bodyguard protection, experienced additional privacy violations, and had to shut down her social media accounts. The hateful targeting continues today.<sup>63</sup>

99. In its intervention, the Trans Legal Collective discusses how Fox’s propagation of hate in the United States is “starting to build itself here in Quebec”. It discusses a “moral panic” over drag queen story hour events, leading to threats and challenges to the civil liberties of trans individuals. There are growing trends of “queerphobic and transphobic violence”.<sup>64</sup>

100. Toronto PFLAG provides a similar view from Ontario. Across the province, 2SLGBTQI-oriented events have been canceled due to the threat of armed individuals and verbal threats. Toronto Pride, its staff, and its members have similarly experienced rising threats.<sup>65</sup> On June 5, 2023, the Canadian federal government recognized this increased risk of violence and announced \$1.5M in emergency security funding for pride events across the country in response to an “alarming rise in hate”.<sup>66</sup>

101. Intervener and teacher Elizabeth Rush shares, “We have noticed a sharp uptick in harmful language from students AND their parents... FOX is feeding into a specific narrative that parents then recycle in their engagements with the school, despite our different Human Rights code and our different (evidence-based) approach to gender and sexual diversity.”<sup>67</sup> Intervener Diversity Ed. – Safer Spaces Canada shares that the “organization

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<sup>63</sup> Factum of the Intervener, [the Society for Queer Momentum](#), at para. 6. See also Johnstone, Fae, “[The Horrifying Consequences of Anti-Trans Attacks](#)” (May 29, 2023), The Walrus, as cited by Factum of the Intervener, the [Canadian Women’s Foundation](#), at para 9.

<sup>64</sup> Factum of the Intervener, [Trans Legal Collective](#), at para. 3.

<sup>65</sup> Factum of the Intervener, [Toronto Pride](#), at para. 4.

<sup>66</sup> See News Release of Women and Gender Equality Canada “[Minister Marci Ien announces emergency security funding to support Pride organizations amidst increasing hate](#)” (2023) Government of Canada.

<sup>67</sup> Submission of Intervener [Elizabeth Rush](#).

and clients have received threats, hate messages, experienced terrifying protests and assault.” It urges, “This needs to be stop. We deserve safety.”<sup>68</sup>

102. There is also extensive social science evidence confirming the suffering that results for those targeted by hate speech. In their recent paper, “[Homophobic hate speech affects well-being of highly identified LGBT people](#)”, Zochniak et al. (2023)<sup>69</sup> noted:

[Hate] speech victims experience **lower levels of quality of life, higher incidence of depression and posttraumatic stress disorder, as well as more frequent suicide attempts**... Among LGBT+ members with rare contact with hate speech, 36% declared suicidal thoughts, while among individuals with frequent contact this percentage was significantly higher at 50%... Shame about sexual orientation might accelerate social isolation or even aggression directed at other LGBT+ individuals... What is more, contact with hate speech among LGBT+ individuals leads to negative emotions, internalizing stereotypes about one’s sexuality and a tendency to avoid coming out...

(emphasis added, internal citations omitted, p. 2).

## **THE REQUIREMENTS OF PROCEDURAL FAIRNESS HAVE BEEN SATISFIED HERE**

103. Fox News curiously relies upon [Broadcasting Decision CRTC 2004-271](#) (the “CHOI-FM Decision”), an almost 20 year-old decision, in which the Commission denied an application by Genex Communications Inc. for the renewal of the broadcasting licence for the French-language commercial radio station CHOI-FM Quebec.

104. The CHOI-FM Decision has no application to the present proceedings for several reasons. First and foremost, CHOI-FM was a domestic radio station, therefore licensed

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<sup>68</sup> Submission of intervener [Diversity Ed. – Safer Spaces Canada](#).

<sup>69</sup> Kamilla Zochniak, et al., “[Homophobic hate speech affects well-being of highly identified LGBT people](#)” (2023) 0:0 Journal of Language and Social Psychology.

by the Commission and subject to a different regime and series of policy tools than those that apply to non-Canadian services and stations. Second, the CHOI-FM Decision precedes the Commission's Regulatory Policy Statement, [Broadcasting Public Notice CRTC 2008-100](#), where the Commission clarified its approach to the authorization of non-Canadian services.<sup>70</sup> Third, as explained above, to the extent the CHOI-FM Decision was ever applicable to non-Canadian services, it has been superseded by the analytical framework in the RT Decision.

105. It appears that Fox News may be relying on the CHOI-FM Decision, rather than the more applicable RT Decision, to argue that it is somehow being denied procedural fairness in the present case. Specifically, Fox News suggests that there is a “lack of notice and lack of evidence” before the Commission here, and that it would “give rise to procedural fairness concerns” to delist Fox News in these circumstances.<sup>71</sup>

106. Egale denies that there has been a lack of notice or evidence, or a violation of procedural fairness.

107. Fox News cannot suggest it lacks notice of the questions at hand in the present proceedings. In its Answer, it acknowledged awareness of Egale's April 4 letter,<sup>72</sup> which was converted into these proceedings in early May. Fox News then had a full month to respond.

108. Egale also denies and rejects the Respondent's suggestion that Egale should have addressed itself directly to Fox News or affiliates. Egale was under no obligation to

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<sup>70</sup> At paras. 243-249.

<sup>71</sup> Factum of the Respondent, [Fox News Network, LLC](#), at para. 22.

<sup>72</sup> *Ibid.*, at para. 12.

informally contact Fox News to express concerns about its programming; it directed its concerns, appropriately, to the domestic Canadian regulator.

109. With regards to process, Egale submits that the procedure followed in the RT Decision applies here and satisfies the requirements of procedural fairness. There, as here, the Commission began a public consultation process to solicit views on whether the station in question should remain on the List. Here, however, the Respondent had the benefit of additional time—the RT consultation process was open for five days, whereas here the public proceedings lasted for over four weeks.

110. To confirm what procedural protections should apply, and whether those that have existed in this application are sufficient, the Commission should be guided by the decision of the SCC in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 (“*Baker*”).

111. In *Baker*, the Court identified the factors applicable to determining the content of the duty of procedural fairness:<sup>73</sup>

1. Nature of the decision being made and the process followed in making it;
2. The applicable statutory scheme, including whether appeal rights exist;
3. The importance of the decision to the individual(s) affected;
4. The legitimate expectations of the party seeking procedural rights;
5. The extent to which the administrative body has the statutory authority to choose its own procedures and the expertise of that body.

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<sup>73</sup> [\[1999\] 2 SCR 817](#) at paras. [23-27](#).

112. Here, the decision being made is an authorization one (factor 1), which is more administrative than judicial in nature, squarely within the expertise of the Commission, which has the ability to set its own procedures<sup>74</sup> (factor 5), and both parties will have the right to seek judicial review of the Commission's decision<sup>75</sup>, should they wish to (factor 2). These factors all point to lower procedural rights. On the other hand, the decision is one of high importance to both parties (factor 3), so it is important that the parties have had the opportunity to be heard.

113. The final factor—the legitimate expectations of the party seeking procedural rights, here the Respondent—centres on whether “the claimant has a legitimate expectation that a certain procedure will be followed, [in which case] this procedure will be required by the duty of fairness.”<sup>76</sup> The Respondent's expectations about the proceeding and potential outcome ought to have been guided by the RT Decision—this is the most recent (and as far as Egale knows, only) example of a non-Canadian service being delisted.

114. In *Baker*, the SCC stated:<sup>77</sup>

The values underlying the duty of procedural fairness relate to the principle that the individual or individuals affected should have the opportunity to present their case fully and fairly, and have decisions affecting their rights, interests, or privileges made using a fair, impartial, and open process, appropriate to the statutory, institutional, and social context of the decision.

Given that the Respondent had the opportunity to present its case in full, it cannot be said that it has not had the opportunity to be heard.

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<sup>74</sup> *Broadcasting Act* ([S.C. 1991, c. 11](#)) (Section 21); *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* ([SOR/2010-277](#)) (Rule 7).

<sup>75</sup> *Federal Courts Act* ([R.S.C. 195, c. F-7](#)) (Section 28).

<sup>76</sup> *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para. 26.

<sup>77</sup> *Ibid.*, at para. 28.

115. Fox News additionally cites the Commission’s decision in [Broadcasting Public Notice CRTC 2004-51](#) (the “2004 *Al Jazeera* decision”) to argue that removing it from the List would be a “grossly disproportionate and unprecedented remedy in this case.”<sup>78</sup> In that case, the Commission stated that delisting would be “too blunt an instrument to be relied upon as the primary method to deal with concerns about a potentially small portion of programming.”<sup>79</sup>

116. Egale denies that the conclusion Fox News draws from the 2004 *Al Jazeera* decision is correct. First, the reasoning in this case has been supplanted by the RT decision. It is no longer unprecedented to delist a media company for broadcasting abusive content. (Further, as discussed above, it is also not unprecedented for a judicial or regulatory body to find that Fox News has violated broadcasting standards and/or broadcast harmful misinformation.)

117. Second, even if the 2004 *Al Jazeera* decision were to govern, there the Commission was considering “a potentially small portion of programming.”<sup>80</sup> As has been shown by interveners, the abusive content aired by Fox News is not theoretical, but rather is systemic.

118. In sum, Fox News is a highly sophisticated media corporation that has been involved in regulatory and legal proceedings across jurisdictions. It had the opportunity to make fulsome submissions here. If the Respondent chose to not seriously engage in the process,

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<sup>78</sup> Factum of the Respondent, [Fox News Network, LLC](#), at para. 5(b).

<sup>79</sup> [Broadcasting Public Notice CRTC 2004-51](#) at para. 75.

<sup>80</sup> *Ibid.*



for strategic or other reasons known only to it, Fox News cannot now object on the grounds of procedural fairness.

## **RELIEF SOUGHT**

119. The Commission has the mandate and obligation to ensure that non-Canadian services and stations adhere to the standards set by the Commission and democratically-elected Canadian governments.

120. These proceedings have provided the Commission with clear evidence that Fox News has repeatedly and regularly violated Canadian regulatory standards, specifically section 5(1)(b) of the Regulations, by broadcasting abusive content that subjects multiple groups in Canada to hate.

121. Media play a pivotal role in the narration and conceptualization of the social and political landscape. The abusive content aired by Fox News directly contributes to rising hate and violence in Canada—the exact outcome that section 5(1)(b) was designed to prevent.

122. We respectfully ask the Commission to remove Fox News from the List of non-Canadian programming services and stations authorized for distribution in Canada.

## CONFIRMATION OF SERVICE

123.A copy of these submissions has been served by email on:

<b>Party</b>	<b>Designated Representative</b>	<b>Email Address</b>
Fox News (Respondent)	Bernard Gugar	<a href="mailto:bernard.gugar@fox.com">bernard.gugar@fox.com</a>
The Black Coalition for AIDS Prevention	Muhaari A.	<a href="mailto:a.muhaari@black-cap.com">a.muhaari@black-cap.com</a>
Canadian Women's Foundation	Paulette Senior	<a href="mailto:psenior@canadianwomen.org">psenior@canadianwomen.org</a>
Dawn Sport	n/a	<a href="mailto:sportyster@gmail.com">sportyster@gmail.com</a>
Diversity Ed. – Safer Spaces Canada	Crystal Fach	<a href="mailto:crystal@diversityed.ca">crystal@diversityed.ca</a>
Elizabeth Rush	n/a	<a href="mailto:rush.elizabeth@gmail.com">rush.elizabeth@gmail.com</a>
The Enchanté Network	Tyler Boyce	<a href="mailto:enchante@enchantenetwork.ca">enchante@enchantenetwork.ca</a>
Frederick Sanders	n/a	<a href="mailto:info@blueweed.ca">info@blueweed.ca</a>
Jeremy Bryant	n/a	<a href="mailto:jerdubryant@gmail.com">jerdubryant@gmail.com</a>
JusticeTrans	Guillaume Bouchard Labonté	<a href="mailto:guillaume@justicetrans.org">guillaume@justicetrans.org</a>
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Pierre Cloutier de Repentigny	n/a	<a href="mailto:pierre.cloutier@carleton.ca">pierre.cloutier@carleton.ca</a>
Rainbow Refugee	Aleks Selim Dughman Manzur	<a href="mailto:aleks@rainbowrefugee.ca">aleks@rainbowrefugee.ca</a>
Robert Moloney	n/a	<a href="mailto:nevermind@yahoo.ca">nevermind@yahoo.ca</a>
The Society of Queer Momentum	Fae Johnstone	<a href="mailto:fae@momentumcanada.net">fae@momentumcanada.net</a>
Toronto PFLAG	Stephanie Woolley	<a href="mailto:stephtoronto@gmail.com">stephtoronto@gmail.com</a>
Toronto Pride	Nirmalan Vijeyakumar	<a href="mailto:nirmalan.vijeyakumar@pridetoronto.com">nirmalan.vijeyakumar@pridetoronto.com</a>
Trans Legal Collective	Celeste Trianon	<a href="mailto:celtea@protonmail.com">celtea@protonmail.com</a>
Women's Legal Education and Action Fund (LEAF)	Pam Hrick	<a href="mailto:pam.h@leaf.ca">pam.h@leaf.ca</a>




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Helen Kennedy  
 Executive Director, Egale Canada  
*Designated Representative*




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Bennett Jensen  
 Director of Legal, Egale Canada  
*Counsel for Egale Canada*

*Submitted June 12, 2023*

## APPENDIX A

The following item is a non-exhaustive list of abusive content cited by interveners that Egale admits constitute section 5(1)(b) violations. Egale submits that each of these items contains several *Al Jazeera* factors and many contain the *Whatcott* hallmarks of hate.

### Abusive Content on the Basis of Race, Colour and/or National or Ethnic Origin

Item	Date	Link	Description	Intervener	Analysis
1	June 8, 2020	<a href="#">Fox News</a> 0:14	In the wake of George Floyd's death and the protests that followed, Tucker Carlson described protesters as a "small group highly aggressive, emotionally charged activists took over our culture".	Factum of Intervener, Black Coalition for AIDS Prevention, at para. 7.	This statement invokes the trope that Black people (who led the post-George Floyd protests) are prone to aggression and are separate from/in opposition to "mainstream" U.S. culture.
2	August 17, 2019	<a href="#">MediaMatters</a>	Heather MacDonald, a guest, suggests that Black culture is the cause for differential outcomes in education between Black and other students.	Factum of Intervener, Black Coalition for AIDS Prevention, at para. 7.	This statement suggest that Black people are less smart and capable than those of other racial identities.
3	2013	<a href="#">Fox News</a> 0:02	Bill O'Reilly describes a case of assault as "another example of young Black Americans committing senseless crimes".	Factum of Intervener, Black Coalition for AIDS Prevention, at para. 7; factum of Intervener, Canadian Women's Foundation, at para. 7.	This statement perpetuates the stereotype that crime is synonymous with the Black American community. The key word is "another".

5	March 29, 2019	<a href="#">Media Matters</a> 1:03	Lou Dobbs, in describing an influx of migrants and the inaction of the Department of Homeland Security, states that inaction will lead to “tens of thousands and perhaps millions of Americans to their deaths.	Factum of Intervener, Canadian Women’s Foundation, at para. 7; factum of Intervener, Rainbow Refugee, at para. 11.	This unsubstantiated statement encourages hate towards migrants by suggesting they are violent and criminal threats, promoting viewers to fear for their lives.
7	November 24, 2018	<a href="#">New York Times</a>	Ann Coulter, when asked by Jeanine Pirro on how to solve the flow of migrants, offered “you can shoot the invaders”.	Factum of Intervener, Canadian Women’s Foundation, at para. 7.	This statement incites hate by encouraging viewers to engage in violence based on citizenship status.
8	August 11, 2019	<a href="#">The New York Times</a>	Tucker Carlson, in discussing the inflow of migrants, describes the situation as an invasion. NYT cites many other instances by other hosts.	Factum of Intervener, Canadian Women’s Foundation, at para. 7.	Describing migration as invasion promotes violence towards newcomers by labelling them as enemies.
9	August 11, 2019	<a href="#">The New York Times</a>	Laura Ingraham refers to the Democrats inviting more immigrants in to “replace” White American voters.	Factum of Intervener, Canadian Women’s Foundation, at para. 7.	This statement falsely portrays newcomers as a threat to Western society and immigrating as a result of an organized plot.
10	May 1, 2023	<a href="#">MediaMatters</a> 1:40	Laura Ingraham alleged that immigrants are being invited into the United States by liberal-aligned entities to “remake America”.	Factum of Intervener, Rainbow Refugee, at para. 9.	This statement falsely portrays newcomers as a threat to Western society and immigrating as

					a result of an organized plot.
11	May 9, 2023	<a href="#">MediaMatters</a> 0:18-0:51	Laura Ingraham endorsed the “Great Replacement” theory again, claiming that the United States was being “invaded” by people who are “gaming the system”, that “we have no idea [...] where they are or what they’re doing”, and that “Biden’s puppeteers [...] planned this. Because their goal is fundamentally change America”.	Factum of Intervener, Rainbow Refugee, at para. 10.	This statement falsely portrays newcomers as a threat to Western society and immigrating as a result of an organized plot.
12	March 4, 2021	<a href="#">Huffington Post</a> 0:08	Speaking about immigrants at the border seeking asylum, Jeanine Pirro stated that “[the people at the border have] got COVID. They’ve got all kinds of diseases. They are being released into the United States.”	Factum of Intervener, Rainbow Refugee, at para. 11.	This statement incites hate by instilling fear of newcomers entering the country.

**Abusive Content on the Basis of Sex, Sexual Orientation and/or Gender Identity and/or Expression**

Item	Date	Link	Description	Intervener	Analysis
13	March 14, 2023	<a href="#">Fox News</a> 11:01	Contributor Mollie Hemmingway describes Dylan Mulvaney’s appearance on Drew Barrymore’s show as “Drew Barrymore sublimating herself on her knees to this dude in lady face”. She later referred to Ms. Mulvaney as having “mental duress, claiming that he’s a female” (14:07).	Factum of Intervener, Canadian Women’s Foundation, at para. 7; factum of Intervener, Society of Queer Momentum, at para. 6; factum of Intervener, Enchanté	This statement sensationalizes what occurred in a way that denigrates all parties. Further, it relies on the archaic classification that trans people are mentally ill.

				Network, at para. 7(c).	
14	March 14, 2023	<a href="#">Fox News</a> 12:53	In the same segment as #13, above, contributor Ned Ryun agrees with Mollie, and refers to being transgender as “mental instability” and a commentary on Western culture.	Factum of Intervener, the Canadian Women’s Foundation, at para. 7; factum of Intervener, Society of Queer Momentum, at para. 6.	This statement relies on the archaic classification that trans people are mentally ill.
15	May 24, 2023	<a href="#">Fox News</a> 1:37	Greg Gutfeld alleges that trans people are trying to “trick” people.	Factum of Intervener, JusticeTrans, at para. 8.	This statement exposes trans people to hate by labelling them as deceptive.
16	May 24, 2023	<a href="#">Fox News</a> 3:17	Greg Gutfeld alleges a conspiracy to propagate gender ideology, stating that there was an organized and coordinated attack.	Factum of Intervener, JusticeTrans, at para. 8.	This statement contains <i>Whatcott</i> hallmarks, where an identifiable group is labelled as attempting to control power structures.
17	May 24, 2023	<a href="#">Fox News</a> 1:48	Clay Travis, as a guest on Fox & Friends, called trans inclusive swimwear “crazy and insane, especially for young people”, despite being marketed for adults.	Factum of Intervener, JusticeTrans, at para. 11.	This statement invokes the dangerous and baseless trope that 2SLGBTQI individuals prey on children.
19	May 24, 2023	<a href="#">Associate d Press</a> 0:29-2:50	Ned Ryun stated that trans inclusive products was a commitment to the “evil of targeting underage children with transgenderism” and	Factum of Intervener, JusticeTrans, at para. 12 [video link	This statement invokes the dangerous and baseless trope that 2SLGBTQI

			that they were grooming children.	added by Egale].	individuals prey on children.
20	May 23, 2023	<a href="#">Fox News</a> 1:20	Speakers from a group called the Battle Cry state that Target is in bed with the Devil and that the trans community is a gender ideology cult. They identified it as a “war of good versus evil” and asserted that “your children are the target”. The leaflets they promoted referred to gender-affirming surgery as “barbaric mutilation” and alleged that public officials were “pushing a cult”.	Factum of Intervener, JusticeTrans, at para. 13.	This statement exposes trans people to hate where it labels them as “evil” and a “cult”, a threat to children, and refers to gender-affirming care as “barbaric”.
21	May 26, 2023	<a href="#">Fox News</a> 3:15	A host on Fox News’ <i>Outnumbered</i> stated that “it should go beyond simply a boycott”, and that they “did not want to live in some kind of libertarian dreamscape where multibillion dollar companies can target children for sexual grooming”.	Factum of Intervener, JusticeTrans, at para. 14.	This statement invokes the dangerous and baseless trope that 2SLGBTQI individuals prey on children.
22	May 26, 2023	<a href="#">Fox News</a> 3:55	A host on <i>Outnumbered</i> falsely explained that targeting children is a core part of gender ideology, referencing supports for the 2SLGBTQI community, in the context of describing an established American nonprofit (GLSEN) that works to make schools safer for LGBTQ+ and children of other marginalized identities. See <a href="https://www.glsen.org/new">https://www.glsen.org/new</a>	Factum of Intervener, JusticeTrans, at para. 16.	This statement invokes the dangerous and baseless trope that 2SLGBTQI individuals prey on children.



			<a href="#">s/glsen-faces-onslaught-attacks-lies-right-wing-extremists</a>		
25	March 24, 2022	<a href="#">MediaMatters 2:19</a>	Joel Berry, a guest, called the trans movement a “kind of cultic religious movement” and claimed that “it has a lot of power”	Factum of Intervener, the Society of Queer Momentum, at para. 6; factum of Intervener, Enchanté Network, at para. 7(b).	This statement contains <i>Whatcott</i> hallmarks, claiming that the trans community is a powerful menace carrying out a secret conspiracy.
26	February 3, 2020	<a href="#">MediaMatters 0:26</a>	Laura Ingraham, referencing a NY-based trans-inclusive school curriculum claimed that allowing children to determine their own gender identity is “child abuse” and will result in children being able to choose to engage in “sexual activity”	Factum of Intervener, Society of Queer Momentum, at para. 6.	This statement preys on the stereotype that 2SLGBTQI identities are dangerous for or somehow sexualize children.
28	November 21, 2022	<a href="#">Fox News 5:43</a>	Tucker Carlson, in discussing gender affirming surgery, states that there is “no scientific justification for sexually mutilating children” and that trans people “believe in a very specific religious ideology”.	Factum of Intervener, Society of Queer Momentum, at para. 6.	This statement encourages hate by alleging that medically-endorsed trans affirming care for minors (in this case 16 and 17-year-olds) amounts to sexual mutilation of children and that trans people would endorse sexual mutilation.